

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 182

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO CRIMES AGAINST CHILDREN; AMENDING SECTION 18-1501, IDAHO CODE, TO PROVIDE FOR ADDITIONAL ACTS THAT CONSTITUTE INJURY TO CHILDREN THAT ARE SUBJECT TO SPECIFIED PUNISHMENT, TO PROVIDE FOR NONAPPLICABILITY OF CERTAIN PROVISIONS OF THIS SECTION AND TO DEFINE TERMS; AMENDING SECTION 18-8001, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 18-8304, IDAHO CODE, TO PROVIDE FOR ADDITIONAL ACTS THAT ARE APPLICABLE TO CHAPTER 83, TITLE 18, IDAHO CODE; AMENDING SECTION 18-8603, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 19-5506, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-1501, Idaho Code, be, and the same is hereby amended to read as follows:

18-1501. INJURY TO CHILDREN. (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one (1) year, or in the state prison for not less than one (1) year nor more than ten (10) years.

(2) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits sexual contact with a child, willfully causes or permits a minor child to witness an act of sexual conduct or willfully commits or permits any lewd act upon or with the body or any part or member thereof of a child, is punishable by imprisonment in the county jail not exceeding one (1) year or in the state prison for not less than one (1) year nor more than ten (10) years.

(3) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(4) A person over the age of eighteen (18) years commits the crime of injury to a child if the person transports a minor in a motor vehicle or vessel as defined in section 67-7003, Idaho Code, while under the influence of alcohol, intoxicating liquor, a controlled substance, or any combination thereof, in violation of section 18-8004 or 67-7034, Idaho Code. Any

1 person convicted of violating this subsection is guilty of a misdemeanor. If a child suffers
 2 bodily injury or death due to a violation of this subsection, the violation will constitute a felony
 3 punishable by imprisonment for not more than ten (10) years, unless a more severe penalty is
 4 otherwise prescribed by law.

5 (45) The practice of a parent or guardian who chooses for his child treatment by prayer
 6 or spiritual means alone shall not for that reason alone be construed to have violated the duty of
 7 care to such child.

8 (6) The provisions of subsections (1) and (3) shall not be applicable to a person who
 9 caused or permitted sexual contact with a child, caused or permitted a minor child to witness an
 10 act of sexual conduct or committed or permitted any lewd act upon or with the body or any part
 11 or member thereof.

12 (57) As used in this section:

13 (a) "Lewd" means lewd as defined in section 18-1508, Idaho Code.

14 (b) "Sexual conduct" means sexual conduct as defined in section 18-1506, Idaho Code.

15 (c) "Sexual contact" means sexual contact as defined in section 18-1506, Idaho Code.

16 (d) "Willfully" means acting or failing to act where a reasonable person would know
 17 the act or failure to act is likely to result in injury or harm or is likely to endanger the
 18 person, health, safety or well-being of the child.

19 SECTION 2. That Section 18-8001, Idaho Code, be, and the same is hereby amended to
 20 read as follows:

21 18-8001. DRIVING WITHOUT PRIVILEGES. (1) Any person who drives or is in
 22 actual physical control of any motor vehicle upon the highways of this state with knowledge or
 23 who has received legal notice pursuant to section 49-320, Idaho Code, that his driver's license,
 24 driving privileges or permit to drive is revoked, disqualified or suspended in this state or any
 25 other jurisdiction is guilty of a misdemeanor.

26 (2) A person has knowledge that his license, driving privileges or permit to drive is
 27 revoked, disqualified or suspended when:

28 (a) He has actual knowledge of the revocation, disqualification or suspension of his
 29 license, driving privileges or permit to drive; or

30 (b) He has received oral or written notice from a verified, authorized source, that his
 31 license, driving privileges or permit to drive was revoked, disqualified or suspended; or

32 (c) Notice of the suspension, disqualification or revocation of his license, driving
 33 privileges or permit to drive was mailed by first class mail to his address pursuant to
 34 section 49-320, Idaho Code, as shown in the transportation department records, and he
 35 failed to receive the notice or learn of its contents as a result of his own unreasonable,
 36 intentional or negligent conduct or his failure to keep the transportation department
 37 apprised of his mailing address as required by section 49-320, Idaho Code; or

38 (d) He has knowledge of, or a reasonable person in his situation exercising reasonable
 39 diligence would have knowledge of, the existence of facts or circumstances which, under
 40 Idaho law, might have caused the revocation, disqualification or suspension of his license,
 41 driving privileges or permit to drive.

42 (3) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for
 43 the first time:

44 (a) Shall be sentenced to jail for a mandatory minimum period of not less than two

45 (2) days, and may be sentenced to not more than six (6) months, provided however,

that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed one thousand dollars (\$1,000); and

(c) Shall have his driving privileges suspended by the court for an additional six (6) months following the end of any period of suspension, disqualification or revocation existing at the time of the violation; the defendant may request restricted driving privileges during the period of the suspension or disqualification, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(4) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for a second time within five (5) years, irrespective of the form of the judgment(s) or withheld judgment(s):

(a) Shall be sentenced to jail for a mandatory minimum period of not less than twenty (20) days, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed one thousand dollars (\$1,000); and

(c) Shall have his driving privileges suspended by the court for an additional one (1) year following the end of any period of suspension, disqualification or revocation existing at the time of the second violation, during the first thirty (30) days of which time he shall have absolutely no driving privileges of any kind. The defendant may request restricted driving privileges during the period of the suspension or disqualification, to begin after the period of absolute suspension, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(5) Any person who has pled guilty to or been found guilty of more than two (2) violations of the provisions of subsection (1) of this section within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a misdemeanor; and

(a) Shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, and may be sentenced to not more than one (1) year; provided, however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed three thousand dollars (\$3,000); and

(c) Shall have his driving privileges suspended by the court for an additional two (2) years following the end of any period of suspension, disqualification or revocation existing at the time of the violation, during the first ninety (90) days of which time he shall have absolutely no driving privileges of any kind. The defendant may request restricted driving privileges during the period of the suspension or disqualification, to begin after the period of absolute suspension, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(6) A minor may be prosecuted for a violation of subsection (1) of this section under chapter 5, title 20, Idaho Code.

(7) If a person is convicted for a violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, and at the time of arrest had no driving privileges, the penalties imposed by this section shall be in addition to any penalties imposed under the provisions of section 18-8005, 18-8004A, 18-8004C or 18-8006, Idaho Code, and not in lieu thereof.

(8) For purposes of this section, the offenses referred to in subsections (3)(a), (4)(a) and (5)(a) of this section are:

(a) Section 18-1501(~~34~~), Idaho Code, transporting a minor in a motor vehicle while under the influence;

(b) Section 18-4006(3), Idaho Code, vehicular manslaughter;

(c) Section 18-8001, Idaho Code, driving without privileges;

(d) Section 18-8004, Idaho Code, driving under the influence of alcohol, drugs or other intoxicating substances;

(e) Section 18-8004C, Idaho Code, excessive alcohol concentration;

(f) Section 18-8006, Idaho Code, aggravated driving while under the influence of alcohol, drugs or any other intoxicating substances;

(g) Section 18-8007, Idaho Code, leaving the scene of an accident resulting in injury or death;

(h) Section 49-1229, Idaho Code, required motor vehicle insurance;

(i) Section 49-1232, Idaho Code, certificate or proof of liability insurance to be carried in motor vehicle;

(j) Section 49-1401, Idaho Code, reckless driving;

(k) Section 49-1404, Idaho Code, eluding a police officer;

(l) Section 49-1428, Idaho Code, operating a vehicle without liability insurance; or any substantially conforming foreign criminal violation.

(9) In no event shall a person be granted restricted driving privileges unless the person shows proof of liability insurance or other proof of financial responsibility, as provided in chapter 12, title 49, Idaho Code.

(10) In no event shall a person who is disqualified or whose driving privileges are suspended, revoked or canceled under the provisions of this chapter be granted restricted driving privileges to operate a commercial motor vehicle.

SECTION 3. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

18-8304. APPLICATION OF CHAPTER. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-1501(2) (injury to children), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), 18-1507 (sexual exploitation of a child), 18-1507A (possession of sexually exploitative material for other than a commercial purpose), 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-6101 (rape, but excluding 18-6101 1. where the defendant is eighteen years of age or younger or where the defendant is exempted under subsection (4) of this section), 18-6108 (male rape), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), or upon a second or subsequent conviction under 18-6609, Idaho Code (video voyeurism).

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1)(a) of this section and enters the state to establish permanent or temporary residence.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1)(a) of this section and was required to register as a sex offender in any other state or jurisdiction when he established permanent or temporary residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) The provisions of this chapter shall not apply to any such person while the person is incarcerated in a correctional institution of the department of correction, a county jail facility or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) When a defendant is convicted of rape under section 18-6101 1., Idaho Code, and at the time of the offense the defendant is nineteen (19) or twenty (20) years of age and not more than three (3) years older than the victim of the rape, the court may order that the defendant is exempt from the requirements of this chapter upon a finding by the court that:

(a) All parties have stipulated to the exemption; or

(b) The defendant has demonstrated by clear and convincing evidence that he is not a risk to commit another crime identified in subsection (1) of this section and in the case there were no allegations by the victim of any violation of section 18-6101 2. through 7., Idaho Code.

SECTION 4. That Section 18-8603, Idaho Code, be, and the same is hereby amended to read as follows:

18-8603. PENALTIES. Notwithstanding any other law to the contrary, on and after July 1, 2006, any person who commits a crime as provided for in the following sections, and who, in the commission of such crime or crimes, also commits the crime of human trafficking, as defined in section 18-8602, Idaho Code, shall be punished by imprisonment in the state prison for not more than twenty-five (25) years unless a more severe penalty is otherwise prescribed by law: 18-905 (aggravated assault), 18-907 (aggravated battery), 18-909 (assault with intent to commit a serious felony), 18-911 (battery with intent to commit a serious felony), 18-913 (felonious administering of drugs), 18-1501(1) and (2) (felony injury to child), 18-1505(1) (felony injury to vulnerable adult), 18-1505(3) (felony exploitation of vulnerable adult), 18-1505B (sexual abuse and exploitation of vulnerable adult), 18-1506 (sexual abuse of a child under the age of sixteen years), 18-1506A (ritualized abuse of child), 18-1507 (sexual exploitation of child), 18-1508A (sexual battery of minor child sixteen or seventeen years of age), 18-1509A (enticing of children over the internet), 18-1511 (sale or barter of child), 18-2407(1) (grand theft), 18-5601 through 18-5614 (prostitution), or 18-7804 (racketeering).

SECTION 5. That Section 19-5506, Idaho Code, be, and the same is hereby amended to read as follows:

19-5506. SCOPE OF LAW – OFFENDERS SUBJECT TO SAMPLE COLLECTION – EARLY COLLECTION OF SAMPLES – RESTITUTION. (a) Any person, including any juvenile tried as an adult, who is convicted of, or pleads guilty to, any of the following crimes, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the Idaho state police, a DNA sample and a right thumbprint impression:

- (1) Arson (sections 18-802, 18-803, 18-804 and 18-805, Idaho Code);
- (2) Aggravated assault (section 18-905, Idaho Code);
- (3) Aggravated battery (section 18-907, Idaho Code);
- (4) Assault with the intent to commit a serious felony (section 18-909, Idaho Code);
- (5) Battery with the intent to commit a serious felony (section 18-911, Idaho Code);
- (6) Felonious administering of drugs (sections 18-913 and 18-914, Idaho Code);
- (7) Assault or battery upon certain personnel (section 18-915, Idaho Code);
- (8) Removing a firearm from a law enforcement officer (section 18-915A, Idaho Code);
- (9) Propelling bodily fluid or waste (section 18-915B, Idaho Code);
- (10) Domestic violence (section 18-918, Idaho Code, constituting a felony);

- (11) Burglary (sections 18-1401 and 18-1405, Idaho Code), except those convictions in which the defendant entered a retail mercantile establishment and the offense took place when the victim was open to the public for business and the defendant committed a theft and his actions did not constitute grand theft as defined in chapter 24, title 18, Idaho Code;
- (12) Injury to a child (section 18-1501(1) and (2), Idaho Code);
- (13) Sexual abuse of a child under the age of sixteen years (section 18-1506, Idaho Code);
- (14) Ritualized abuse of a child (section 18-1506A, Idaho Code);
- (15) Possession of sexually ~~exploitive~~ exploitative material for other than a commercial purpose (section 18-1507A, Idaho Code);
- (16) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);
- (17) Sexual battery of a minor child sixteen or seventeen years of age (section 18-1508A, Idaho Code);
- (18) Enticing of children (sections 18-1509 and 18-1509A, Idaho Code);
- (19) Sale or barter of a child (section 18-1511, Idaho Code);
- (20) Possession of a controlled substance or dangerous weapon (section 18-2511, Idaho Code);
- (21) False reports of explosives (section 18-3313, Idaho Code);
- (22) Unlawful possession of a firearm (section 18-3316, Idaho Code);
- (23) Unlawful discharge of a firearm (section 18-3317, Idaho Code);
- (24) Unlawful possession or use of bombs or destructive devices (sections 18-3319 and 18-3320, Idaho Code);
- (25) Use of weapons of mass destruction (section 18-3322, Idaho Code);
- (26) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);
- (27) Manslaughter (sections 18-4006(1) or (2) and 18-4007, Idaho Code);
- (28) Administering poison with intent to kill (section 18-4014, Idaho Code);
- (29) Assault with intent to murder (section 18-4015, Idaho Code);
- (30) Indecent exposure (section 18-4116, Idaho Code), constituting a felony;
- (31) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
- (32) Forest sabotage (section 18-4631, Idaho Code);
- (33) Mayhem (sections 18-5001 and 18-5002, Idaho Code);
- (34) Cannibalism (section 18-5003, Idaho Code);
- (35) Poisoning food, medicine or wells (section 18-5501, Idaho Code);
- (36) Interstate trafficking in prostitution (section 18-5601, Idaho Code);
- (37) Inducing a minor into prostitution (section 18-5609, Idaho Code);
- (38) Rape (section 18-6101, Idaho Code);
- (39) Male rape (sections 18-6108 and 18-6109, Idaho Code);
- (40) Sexual contact with a prisoner (section 18-6110, Idaho Code);
- (41) Video voyeurism (section 18-6609, Idaho Code);
- (42) Robbery (section 18-6501, Idaho Code);
- (43) Incest (section 18-6602, Idaho Code);
- (44) Crime against nature (section 18-6605, Idaho Code);
- (45) Forcible sexual penetration (section 18-6608, Idaho Code);
- (46) Removal, destruction or burning of electric lines or plants (sections 18-6803, 18-6804 and 18-6805, Idaho Code);

- (47) Malicious injury to property (section 18-7001, Idaho Code), constituting a felony;
 - (48) Injuring dams, canals or other structures (section 18-7019, Idaho Code);
 - (49) Setting fire to underground workings of mines (sections 18-7024 and 18-7025, Idaho Code);
 - (50) Sabotage (section 18-7026, Idaho Code);
 - (51) Aircraft hijacking (section 18-7501, Idaho Code);
 - (52) Assault with intent to commit aircraft hijacking (section 18-7502, Idaho Code);
 - (53) Threats made against airline passengers and other persons, commercial airline companies, or aircraft (section 18-7504, Idaho Code);
 - (54) Racketeering (section 18-7804, Idaho Code);
 - (55) Malicious harassment (sections 18-7902 and 18-7903, Idaho Code);
 - (56) Stalking in the first degree (section 18-7905, Idaho Code);
 - (57) Prohibited terrorist activities (section 18-8103, Idaho Code);
 - (58) Providing material support to terrorists (section 18-8106, Idaho Code);
 - (59) Prohibited employment of adult criminal sex offenders (section 18-8327, Idaho Code);
 - (60) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code);
 - (61) Failure to register as sex offender (sections 18-8304 and 18-8308, Idaho Code).
- (b) In addition to those crimes enumerated in subsection (a) of this section, any person, including any juvenile tried as an adult, who is convicted for an attempt to commit any of the following crimes, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the Idaho state police, a DNA sample and a right thumbprint impression:
- (1) Arson (sections 18-802 through 18-805, Idaho Code);
 - (2) Felonious administering of drugs (sections 18-913 and 18-914, Idaho Code);
 - (3) Assault or battery upon certain personnel (section 18-915, Idaho Code);
 - (4) Removing a firearm from a law enforcement officer (section 18-915A, Idaho Code);
 - (5) Propelling bodily fluid or waste (section 18-915B, Idaho Code);
 - (6) Sexual abuse of a child under the age of sixteen years (section 18-1506, Idaho Code);
 - (7) Ritualized abuse of a child (section 18-1506A, Idaho Code);
 - (8) Injury to a child (section 18-1501(1) and (2), Idaho Code);
 - (9) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);
 - (10) Sexual battery of a minor child sixteen or seventeen years of age (section 18-1508A, Idaho Code);
 - (11) Enticing of children (sections 18-1509 and 18-1509A, Idaho Code);
 - (12) Sale or barter of a child (section 18-1511, Idaho Code);
 - (13) Possession of a controlled substance or dangerous weapon (section 18-2511, Idaho Code);
 - (14) False reports of explosives (section 18-3313, Idaho Code);
 - (15) Unlawful possession of a firearm (section 18-3316, Idaho Code);
 - (16) Unlawful discharge of a firearm (section 18-3317, Idaho Code);
 - (17) Unlawful possession or use of bombs or destructive devices (sections 18-3319 and 18-3320, Idaho Code);
 - (18) Use of weapons of mass destruction (section 18-3322, Idaho Code);
 - (19) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);

- (20) Administering poison with intent to kill (section 18-4014, Idaho Code);
- (21) Assault with intent to murder (section 18-4015, Idaho Code);
- (22) Indecent exposure (section 18-4116, Idaho Code), constituting a felony;
- (23) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
- (24) Forest sabotage (section 18-4631, Idaho Code);
- (25) Mayhem (section 18-5001, Idaho Code);
- (26) Cannibalism (section 18-5003, Idaho Code);
- (27) Poisoning food, medicine or wells (section 18-5501, Idaho Code);
- (28) Interstate trafficking in prostitution (section 18-5601, Idaho Code);
- (29) Inducing a minor into prostitution (section 18-5609, Idaho Code);
- (30) Rape (section 18-6101, Idaho Code);
- (31) Male rape (sections 18-6108 and 18-6109, Idaho Code);
- (32) Sexual contact with a prisoner (section 18-6110, Idaho Code);
- (33) Video voyeurism (section 18-6609, Idaho Code);
- (34) Robbery (section 18-6501, Idaho Code);
- (35) Incest (section 18-6602, Idaho Code);
- (36) Crime against nature (section 18-6605, Idaho Code);
- (37) Forcible sexual penetration (section 18-6608, Idaho Code);
- (38) Removal, destruction or burning of electric lines or plants (sections 18-6803, 18-6804 and 18-6805, Idaho Code);
- (39) Malicious injury to property (section 18-7001, Idaho Code), constituting a felony;
- (40) Injuring dams, canals or other structures (section 18-7019, Idaho Code);
- (41) Setting fire to underground workings of mines (sections 18-7024 and 18-7025, Idaho Code);
- (42) Sabotage (section 18-7026, Idaho Code);
- (43) Aircraft hijacking (section 18-7501, Idaho Code);
- (44) Assault with intent to commit aircraft hijacking (section 18-7502, Idaho Code);
- (45) Threats made against airline passengers and other persons, commercial airline companies, or aircraft (section 18-7504, Idaho Code);
- (46) Malicious harassment (sections 18-7902 and 18-7903, Idaho Code);
- (47) Stalking in the first degree (section 18-7905, Idaho Code);
- (48) Prohibited terrorist activities (section 18-8103, Idaho Code);
- (49) Providing material support to terrorists (section 18-8106, Idaho Code);
- (50) Prohibited employment of adult criminal sex offenders (section 18-8327, Idaho Code);
- (51) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code).

(c) This chapter's requirements for submission to tests and procedures for obtaining a DNA sample and thumbprint impression from the persons described above are mandatory and apply to those persons convicted of such crimes covered in this chapter prior to its effective date, and who, as a result of the offense, are incarcerated in a county jail facility or a penal facility or are under probation or parole supervision after the effective date of this chapter.

(d) The collection of samples and impressions specified in this chapter are required regardless of whether the person previously has supplied a DNA sample to law enforcement agencies in any other jurisdiction.

1 (e) The requirements of this chapter are mandatory and apply regardless of whether a
2 court advises a person that samples and impressions must be provided to the databank and
3 database as a condition of probation or parole.

4 (f) Unless the court determines that an order of restitution would be inappropriate or
5 undesirable, it shall order any person subject to the provisions of this section to pay restitution
6 to help offset costs incurred by law enforcement agencies for the expense of DNA analysis.

7 (g) The court may order such person to pay restitution for DNA analysis in an amount
8 not to exceed five hundred dollars (\$500) per DNA sample analysis, or in the aggregate not
9 more than two thousand dollars (\$2,000), regardless of whether:

10 (1) The source of the sample is the person, the victim or other persons of interest in the
11 case;

12 (2) Results of the analysis are entered into evidence in the person's criminal case;

13 (3) The DNA sample was previously analyzed for another criminal case; or

14 (4) Restitution for that DNA sample analysis was ordered in any other criminal case.

15 (h) Law enforcement agencies entitled to restitution under this section include the Idaho
16 state police, county and city law enforcement agencies, the office of the attorney general,
17 county prosecuting attorneys and city attorneys.

18 (i) In the case of reimbursement for DNA analysis performed by the Idaho state police,
19 those moneys shall be paid to the Idaho state police and deposited in the law enforcement fund.
20 In the case of reimbursement to the office of the attorney general, those moneys shall be paid to
21 the general fund.

22 (j) Persons who have been sentenced to death, or life without the possibility of parole, or
23 to any life or indeterminate term are not exempt from the requirements of this chapter.